

SECOND REGULAR SESSION

SENATE JOINT RESOLUTION NO. 45

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATORS BARTLE AND GROSS.

Read 1st time January 27, 2004, and ordered printed.

TERRY L. SPIELER, Secretary.

4263S.01I

JOINT RESOLUTION

Submitting to the qualified voters of Missouri, an amendment repealing sections 14, 15, 16, 17, 19, 20, 21, 25(a), 25(b), 25(c)(2), and 25(d) of article V of the Constitution of Missouri, and adopting nine new sections in lieu thereof relating to the judiciary.

Be it resolved by the Senate, the House of Representatives concurring therein:

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2004, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to article V of the Constitution of the state of Missouri:

Section A. Sections 14, 15, 16, 17, 19, 20, 21, 25(a), 25(b), 25(c)(2), and 25(d), article V, Constitution of Missouri, are repealed and nine new sections adopted in lieu thereof, to be known as sections 14, 15, 19, 20, 21, 25(a), 25(b), 25(c)(2), and 25(d), to read as follows:

Section 14. (a) The circuit courts shall have original jurisdiction over all cases and matters, civil and criminal. Such courts may issue and determine original remedial writs and shall sit at times and places within the circuit as determined by the circuit court. **Effective January 1, 2006, all associate circuit judges shall become circuit judges with all the powers, duties, and compensation of circuit judges, and the office of associate circuit judge shall be abolished as of that date.**

(b) Procedures for the adjudication of small claims shall be as provided by law.

Section 15. 1. The state shall be divided into convenient circuits of contiguous

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

counties. In each circuit there shall be at least one circuit judge. The circuits may be changed or abolished by law as public convenience and the administration of justice may require, but no judge shall be removed from office during his term by reason of alteration of the geographical boundaries of a circuit. Any circuit [or associate circuit] judge may temporarily sit in any other circuit at the request of a judge thereof. In circuits having more than one judge, the court may sit in general term or in divisions. The circuit judges of the circuit may make rules for the circuit not inconsistent with the rules of the supreme court.

2. Each circuit shall have such number of circuit judges as provided by law.

3. The circuit [and associate circuit] judges in each circuit shall select by secret ballot a circuit judge from their number to serve as presiding judge. The presiding judge shall have general administrative authority over the court and its divisions.

4. Personnel to aid in the business of the circuit court shall be selected as provided by law or in accordance with a governmental charter of a political subdivision of this state. Where there is a separate probate division of the circuit court, the judge of the probate division shall, until otherwise provided by law, appoint a clerk and other nonjudicial personnel for the probate division.

Section 19. Judges of the supreme court and of the court of appeals shall be selected for terms of twelve years[, and judges of the circuit courts for terms of six years[, and associate circuit judges for terms of four years]. **Effective January 1, 2006, all associate circuit judges who have become circuit court judges pursuant to section 14 of this article shall serve an additional two-year term, and upon reappointment or election shall be selected for terms of six years.**

Section 20. All judges shall receive as salary the total amount of their present compensation until otherwise provided by law, but no judge's salary shall be diminished during his term of office. No judge shall receive any other or additional compensation for any public service. No supreme, appellate, circuit [or associate circuit] judge shall practice law or do law business. Judges may receive reasonable traveling and other expenses allowed by law.

Section 21. Judges of the supreme court and of the court of appeals shall have been citizens of the United States for at least fifteen years, and qualified voters of the state for nine years next preceding their selection. Such judges shall be at least thirty years of age. Except as provided by section 6, judges of the court of appeals shall be residents of the court of appeals district in which they serve. Circuit judges shall have been citizens of the United States for at least ten years, and qualified voters of this state three years next preceding their selection, and be not less than thirty years of age and residents of the circuit for at least one year. [Associate circuit judges shall be qualified voters of this state and residents of the county, at least twenty-five years old, and have such other qualifications as may be provided by law.] Every supreme, appellate, **or** circuit[, and associate circuit] court

judge shall be licensed to practice law in this state.

Section 25(a). Whenever a vacancy shall occur in the office of judge of any of the following courts of this state, to wit: The supreme court, the court of appeals, or in the office of circuit [or associate circuit] judge within the city of St. Louis and Jackson County, the governor shall fill such vacancy by appointing one of three persons possessing the qualifications for such office, who shall be nominated and whose names shall be submitted to the governor by a nonpartisan judicial commission established and organized as hereinafter provided. If the governor fails to appoint any of the nominees within sixty days after the list of nominees is submitted, the nonpartisan judicial commission making the nomination shall appoint one of the nominees to fill the vacancy.

Section 25(b). At any general election the qualified voters of any judicial circuit outside of the city of St. Louis and Jackson County, may by a majority of those voting on the question elect to have the circuit [and associate circuit] judges appointed by the governor in the manner provided for the appointment of judges to the courts designated in section 25(a), or, outside the city of St. Louis and Jackson County, to discontinue any such plan. The question of whether the circuit [and associate circuit] judges of any such circuit shall be so appointed shall be submitted to the voters of each county in any circuit at the next general election whenever petitions therefor signed by ten percent of the legal voters of each county in the circuit voting for the office of governor at the last election thereof are filed in the office of secretary of state at least 90 days before such election. The question shall be presented as follows: "Shall the circuit [and associate circuit] judges of the judicial circuit be selected as provided in Section 25 of Article V of the Missouri Constitution? YES ☐ NO

☐ (Mark One) "The provisions of law with respect to initiative petitions shall apply insofar as applicable relative to the certification of the petitions to local officials by the secretary of state, the preparation, printing, publishing and distribution of the judicial ballots required by this section, the holding and conduct of the election, and the counting, canvassing, return, certification, and proclamation of the votes. If a majority of the votes upon the question are cast in favor of the adoption in each county comprising the circuit, the nonpartisan selection of the circuit [and associate] judges shall be adopted in the circuit. The question of selection of circuit [and associate circuit] judges in the manner provided in section 25(a) shall not be submitted more often than once every four years. If any judicial circuit adopts the nonpartisan selection of the circuit [and associate circuit] judges under the provisions of this section, the question of its discontinuance shall not be submitted more often than once every four years and may be submitted at any general election and shall be proceeded upon insofar as may be applicable in like manner as prescribed in this section for the original adoption of the plan.

The petition shall be in substantially the following form:

To the Honorable Officials in general charge of elections for the county of for the state of Missouri:

We, the undersigned, legal voters of the state of Missouri, and of the county of, respectfully demand that the question of the discontinuance of the nonpartisan selection of the circuit [and associate circuit] judges be submitted to the legal voters of the judicial circuit, for their approval or rejection, at the general election to be held on the day of, A.D. [19] **20**...

The ballot shall provide as follows:

"Shall the nonpartisan appointment by the governor of the circuit [and associate circuit] judges be discontinued in the judicial circuit?

☐ YES

☐ NO

(Place an "X" in one square.)"

If a majority of the votes upon the question are cast in favor of such discontinuance in each county comprising the circuit, the nonpartisan selection of the circuit [and associate circuit] judges shall be discontinued in such judicial circuit.

If the nonpartisan selection of the judges be discontinued in any such judicial circuit, other than the city of St. Louis and Jackson County, the selection of such judges therein shall be made as otherwise prescribed by law. This section shall be self-enforcing.

Section 25(c)(2). Whenever a declaration of candidacy for election to succeed himself is filed by any judge [or associate circuit judge] under the provisions of this section, the secretary of state shall not less than thirty days before the election certify the name of said judge [or associate circuit judge] and the official title of his **or her** office to the clerks of the county courts, and to the boards of election commissioners in counties or cities having such boards, or to such other officials as may hereafter be provided by law, of all counties and cities wherein the question of retention of such judge in office is to be submitted to the voters, and, until legislation shall be expressly provided otherwise therefor, the judicial ballots required by this section shall be prepared, printed, published and distributed, and the election upon the question of retention of such judge in office shall be conducted and the votes counted, canvassed, returned, certified and proclaimed by such public officials in such manner as is now provided by the statutory law governing voting upon measures proposed by the initiative.

Section 25(d). Nonpartisan judicial commissions whose duty it shall be to nominate and submit to the governor names of persons for appointment as provided by sections 25(a)-(g) are hereby established and shall be organized on the following basis: For vacancies in the office of judge of the supreme court or of the court of appeals, there shall be one such commission, to be known as "The Appellate Judicial Commission"; for vacancies in the office

of circuit judge [or associate circuit judge] of any circuit court subject to the provisions of sections 25(a)-(g) there shall be one such commission, to be known as "The Circuit Judicial Commission", for each judicial circuit which shall be subject to the provisions of sections 25(a)-(g); the appellate judicial commission shall consist of a judge of the supreme court selected by the members of the supreme court, and the remaining members shall be chosen in the following manner: The members of the bar of this state residing in each court of appeals district shall elect one of their number to serve as a member of said commission, and the governor shall appoint one citizen, not a member of the bar, from among the residents of each court of appeals district, to serve as a member of said commission, and the members of the commission shall select one of their number to serve as chairman. Each circuit judicial commission shall consist of five members, one of whom shall be the chief judge of the district of the court of appeals within which the judicial circuit of such commission, or the major portion of the population of said circuit is situated and the remaining four members shall be chosen in the following manner: The members of the bar of this state residing in the judicial circuit of such commission shall elect two of their number to serve as members of said commission, and the governor shall appoint two citizens, not members of the bar, from among the residents of said judicial circuit to serve as members of said commission, the members of the commission shall select one of their number to serve as chairman; and the terms of office of the members of such commission shall be fixed by law, but no law shall increase or diminish the term of any member then in office. No member of any such commission other than a judge shall hold any public office, and no member shall hold any official position in a political party. Every such commission may act only by the concurrence of a majority of its members. The members of such commission shall receive no salary or other compensation for their services but they shall receive their necessary traveling and other expenses incurred while actually engaged in the discharge of their official duties. All such commissions shall be administered, and all elections provided for under this section shall be held and regulated, under such rules as the supreme court shall promulgate.

[Section 16. Each county shall have such number of associate circuit judges as provided by law. There shall be at least one resident associate circuit judge in each county. Associate circuit judges shall be selected or elected in each county. In those circuits where the circuit judge is selected under section 25 of article 5 of the constitution the associate circuit judge shall be selected in the same manner. All other associate circuit judges shall be elected in the county in which they are to serve.]

[Section 17. Associate circuit judges may hear and determine all cases, civil or criminal and all other matters as now provided by law for magistrate or probate judges and may be assigned such additional cases or classes of cases as may be provided by law. In probate matters the associate circuit judge shall have general

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